

IV. ENVIRONMENTAL REVIEW

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A. INTRODUCTION

All Revolving Loan Fund projects are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), which establishes national policy and procedures for protecting, restoring and enhancing environmental quality. They are also subject to other statutes, Executive Orders and regulations dealing with a number of specific environmental concerns, such as historic preservation, floodplains, wetlands, noise and others. NEPA is intended to: (1) improve decision-making by ensuring that all relevant information is considered and (2) make that information available to the public.

Regulations are found in 24 CFR Part 58 , Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. You may review the most recent regulations online at the following electronic address:
www.hud.gov/offices/cpd/energyenviron/environment/lawsandregs/regs/part58/index.cfm.

Remember that all local governments that receive HUD funds, including those that received funds in previous years, have a continuing legal responsibility to meet all environmental review requirements. Grantees can meet their responsibilities by familiarizing themselves with the areas addressed by environmental review and by providing BOLD with accurate information about project sites.

B. THE SCOPE OF ENVIRONMENTAL REVIEW

Grantees administering revolving loan funds do **not** have to prepare an ENVIRONMENTAL REVIEW RECORD. However, grantees must maintain site-specific environmental files (termed *second-tier environmental review* files) on each property funded from the grantee's RLF.

C. WHAT THE SECOND-TIER ENVIRONMENTAL REVIEW MUST COVER

The second-tier environmental review must cover all activities related to the RLF project. The definition of “activity” in Part 58.2 includes both actions funded with CDBG assistance and with other funding sources that are part of the same project. Section 58.32 states that “A recipient must group together and evaluate as a single project all individual activities which are related either geographically or functionally...”

D. GENERAL PROCEDURES

Fill out a copy of Attachment 1 (the Statutory Checklist) for each property funded under the community’s RLF. Be sure to provide documentation if you check either “Consultation/Review required” or “Conditions and/or Mitigation Actions required” for any environmental area. A copy of this form should be placed in each project file. Attachment 1A is a worksheet which will assist you in understanding and addressing the compliance issues found in the Statutory Checklist.

E. UNDERSTANDING STATUTORY CHECKLIST COMPLIANCE ISSUES

Historic Preservation

1. Attachment 2 details the steps to be taken when reviewing individual projects for potential historic impact. Please review this form carefully because it tells you specifically when a historic review must be carried out. Reading it can save you both time and effort!
2. Many second-tier reviews on homes 50 years of age or older concern the effects of rehab on potentially historic properties.

A realtor’s estimate of a building’s age is not acceptable. A title abstract or similar documentation of the age must be used.

Special, simplified review procedures are used for communities with intensive surveys (found on Attachment 3). Please contact BOLD for specific instructions if your community is listed on this attachment.

3. Review Attachment 4 (Activities Exempt from Further Review) to determine whether your project needs to be submitted to BOLD.

If the activities you propose do not appear on that list, you must submit a completed copy of Attachment 5 (Initial Project Review) to BOLD for review. Be sure to complete the form accurately and completely. Projects located in unincorporated areas of the State must include the Township, Range, and Section. It is essential that the proposed exempt and non-exempt work lists be included. Photographs should give a full view of the property, and closeups of work areas. If any information is missing, your project may be delayed. Digital photos are encouraged.

4. If you are doing any projects that propose demolition, relocation, new construction, capital improvements or ground-disturbing activities please review Attachment 6. No work should occur on any potentially historic structure or site funded under RLF until approval by BOLD is received (usually 15 days or less, but 30 days or less in most cases).

5. If any new ground-disturbing activities that cannot be characterized as repair, replacement, rehabilitation or renovation, are planned--such as constructing a new septic system, relocating water lines, etc.-- a copy of Attachment 7 (**Archeological Review**) should be completed and submitted to BOLD. The BOLD will determine whether additional mitigation measures are required and will respond within 30 days.

Floodplain Management

Executive Order 11988 requires federal agencies and recipients of federal funds, including those managing revolving loan funds, to protect the values and benefits of floodplains, and to reduce risks of flood losses by not conducting, supporting, or allowing actions located in a floodplain unless it is the only practicable alternative. Whether a property is located in or near a floodplain depends on the nearness of drainage ways, streams, rivers, or coastlines (in terms of horizontal distance), the volume of water, and the relative elevation of the floodplain and affected property. If such features exist within one mile of the property the location of the 100-year floodplain must be determined.

Determining the Location of Floodplains

The floodplains for most sections of Wisconsin have been mapped by the Federal Emergency Management Agency (FEMA), through its Flood Insurance Rate Map (FIRM) program. Consult the map of your area. They are often available locally, through planning departments of local governments, regional planning commissions, public libraries, etc., or from the Department of Natural Resources, Water Regulation and Zoning, 6th Floor, GEF II, Madison, WI 53702. Phone: (608)-266-8030. When making your determination, please note the map number and its effective date. Maps and studies on flood elevations for those localities participating in the National Flood Insurance Program may be obtained by calling 800-638-6620.

Floodplain maps may now be accessed online. Go to the FEMA website (www.fema.gov) click on "FEMA Map Store;" "Catalog;" then "FEMA-issued Flood Maps." Follow the instructions, then click on "view." You will be able to print a portion of the floodplain map you've selected.

When Floodplain Review is Necessary

If there are drainageways, streams, rivers, or coastlines within one mile of the project site, it is necessary to conduct a floodplain review. A review is carried out by obtaining the FIRM map and noting the project location on it. A copy must be kept with the project file.

Under floodplain regulations, **minor rehab** is defined as any repair, reconstruction, modernization or improvement of a structure the cost of which is less than 50% of the market value of the structure either:

- Before the improvement or repair is started; or
- If the structure has been damaged and is being restored, before the damage occurred.

Conversely, **substantial rehab** is defined as any such repair that exceeds 50% of the market value, as defined above.

While substantial rehab is strongly discouraged by CDBG policy, minor rehab is permitted under the following conditions:

- The owners and/or tenants of the residence are notified that their property is located in a 100-year floodplain;
- Flood insurance is obtained for a minimum of one year from the date on which the loan is made; and
- The RLF program will fund rehab of such properties one time only. If a residence is subsequently flood damaged, the program will not pay for the same repair costs a second time.

If the property owner cannot afford to purchase flood insurance, the cost of one year of flood insurance may be added to the CDBG-RLF loan.

Coastal Zone Management

Grantees proposing rehab projects on sites in coastal zone erosion areas should submit projects to the Regional Planning Commission which has jurisdiction in the Grantee's community for review. Coastal zone erosion areas include:

- areas along or adjacent to the Lake Michigan or Lake Superior shoreline, or
- along rivers or streams that drain into either lake, or
- areas within two miles of either shoreline.

Wild and Scenic Rivers

Grantees are discouraged from rehabbing sites that front on riverbanks of the Upper and Lower St. Croix and Wolf rivers, and along riverbanks that are found on Attachment 8. If the grantee desires to undertake such projects, consult with BOLD.

Runway Clear Zones

Grantees must consult with HUD Circular letter HD 85-8 and notify residents of any property found in runway clear zones, in accordance with Attachment 9.

Manufactured Hazards or Manmade Hazards

Grantees must determine whether leaking underground storage tanks, hazardous waste facilities, toxic chemicals or radioactive materials or other potential public health and safety problems either directly or indirectly affect proposed project sites. A useful map and list of sites regulated by the Environmental Protection Agency, sorted by zipcode, is available at the following website address: www.epa.gov/epahome/comm.htm. A list of contaminated sites can be found at: www.dnr.state.wi.us/org/aw/rr/brrts/index.htm. If there is any question, consult with BOLD for assessment assistance.

Manufactured hazards include exposure to hazardous chemicals, via the air, soil, and water, as well as risks to life and property through proximity to railroads and other industrial

activities. Air-borne hazards include releases of chemicals from aboveground chemical storage facilities. Water-borne hazards include contamination of groundwater by leaking underground storage tanks into well fields. Soil contamination by chemical spills is another means by which humans are exposed to manufactured hazards. In addition, sites adjacent to active railroads are another kind of manufactured hazard, which exposes residents to risk through railroad accidents. Sites located within one-quarter mile of industries using or storing chemicals are generally not suitable for new construction, due to the risk of chemical exposure.

Noise

General. Noise standards were established to encourage noise control at the state and community level. In order to determine whether sound levels at a given location are acceptable, HUD has adopted the use of a day-night average sound level (DNL) descriptor. An acceptable level is one in which the DNL does not exceed 65 decibels (dBs). DNLs above 65, but not in excess of 75dBs, are unacceptable unless measures are taken to mitigate (lessen or minimize) the noise. Sites with exposures above 75dBs are not acceptable. Typical sources of excessive noise are highways, railroads, airports and stationary noise sources such as factories.

1. Highways. Generally speaking, a major highway means an interstate or other comparable highway, truck routes in urban areas, U.S. highways, state-numbered highways, and principal streets within cities. Local access streets in residential districts are not major highways. If the project site is located within 1,000 feet (approximately 0.2 miles) of a major highway, then it may be necessary to conduct a noise assessment. An important piece of information in making such an assessment is the traffic count--the number of cars and trucks using the highway in a 24-hour period. Traffic counts are often available either from a city's streets or traffic department, or from the State Department of Transportation, Planning and Budget Division, Data Development Section, 4802 Sheboygan Avenue, Madison, Wisconsin 53705. Phone: 608/266-3661. Traffic counts for major streets are also available from BOLD. Contact the Environmental Desk at 608/267-2712. Traffic counts do not exist for all streets. When counts do not exist, it is necessary to get the traffic count closest to the location of the facility.
2. Railroads. The principal factors in measuring railroad noise are: the distance from the project site to the tracks, the number of trains per day, the speed of the trains, the average number of engines and cars for each train, and whether there are any intervening buildings to moderate the noise. This information can be obtained from the nearest freight agent of the railroad. Abandoned tracks, or railroad lines with less than daily service, are not considered to be significant noise sources. Information on railroad traffic can also be obtained by writing or calling Mr. Rex Hinrichs of the Department of Transportation Planning and Budget Division, Data Development Section, 4802 Sheboygan Avenue, Madison, Wisconsin 53705. Phone: 608/267-9617.
3. Airports. The most critical factors in assessing airport noise are: the number of scheduled jet flights, the portion of which are night flights, and the distance of the project site from the flight path. The airport manager can supply this information to you. The number of nonjet flights is not a factor in this calculation.

4. Stationary Noise Sources. Factories and industrial facilities should be considered as noise sources as well. The distance from the project site to the noise source, the hours of operation of the industrial facility, and whether there are any intervening buildings to moderate the noise must be considered.

The focus of the regulations is to determine the noise level of the actual location where the funded activity is to take place. In most cases, it is the interior noise level of a building that is of importance. If interior noise levels are determined to be excessive, then measures may be required to reduce the interior noise to an acceptable level.

Noise Standards

1. Is the project site located within 1,000 feet of a major road, highway, county trunk, truck route, state or federal highway, or urban business route? ☐ Yes ☐ No
2. Is the project site located within 3,000 feet of an active rail line (used at least daily)? ☐ Yes ☐ No
3. Is the project located within two miles of a general aviation, or military airport handling jet operations with scheduled air service? ☐ Yes ☐ No
4. Is the project site located within 1,000 feet of any other noise-generating source, such as an industrial plant? ☐ Yes ☐ No

If the answer to any of the above four questions is “yes,” then a potential noise problem exists which may require additional mitigation measures.

If rehab sites are located along roads with more than 10,000 vehicles per day, railroads with more than two trains per day, airports with scheduled jet service, or are adjacent to large stationary noise sources, grantees are encouraged to work with property owners to consider and include noise abatement measures as a part of the project, when such circumstances exist. Traffic counts can be obtained from local traffic departments or BOLD. Consult with BOLD for recommendations on specific noise abatement measures.

Interpreting the Noise Regulations

The effects of noise on people vary considerably. Some people have a low tolerance for high noise levels, while other people are able to “block out” noise as they go about daily activities. Because the regulations **encourage**, but do not require, recipients of federal funds to include noise-reducing measures in housing rehabilitation, it is important to understand the Small Cities CDBG program policy toward them. Noise-buffering measures should be considered when residents of housing consider noise to be a problem. Typical situations include:

- Individuals recuperating at home who require quiet;
- Individuals who work at night for whom noise makes sleep difficult;
- Other circumstances in which a noisy environment exacerbates health problems or a sense of well being, or detracts from an individual’s or family’s quality of life.

Wetlands Protection

Executive Order 11990 requires all agencies to refrain from supporting construction in wetlands whenever there is practicable alternative, to avoid either destroying or modifying wetlands. Adverse impacts include erosion or sedimentation, pollution through septic tank seepage, filling, and similar excessive or improper uses of the wetlands.

1. Is the project site located in a wetland area, or are there any ponds, marshes, bogs, swamps, or other wetlands within 500 feet of the project area?
___ Yes ___ No
2. If the project site is located in or near a wetland area, will your project result in fill (such as topsoil, gravel, etc.) being placed in the wetland area, or will it result in greatly increased usage of the wetland? If the answer to either question is "yes," further technical analysis may be required to determine if mitigating measures are necessary. ___ Yes ___ No

Selecting sites outside wetlands is essential for projects using federal funds, because Executive Order 11990 discourages federal agencies from initiating or participating in new construction within areas affecting wetlands.

Floodplains and Wetlands

Approximately 85% of the nation's wetlands are on or adjacent to floodplains. The procedures for fulfilling the requirements of Executive Order 11990 should be combined with and performed at the same time as the floodplain analysis under Executive Order 11988.

Water Quality

The Safe Drinking Water Act of 1979 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) governs activities which affect the water in the U.S. It requires that permits be obtained from the Corps of Engineers before dredging or filling of rivers, streams, lakes, or wetlands. This act also controls the discharge of effluents (such as treated sewage) into water. If any project plan includes such activities, contact BOLD for assistance.

Solid Waste Disposal

Disposal of hazardous waste (asbestos, lead paint, etc.) must meet DNR regulations, and licensed carriers must transport and dispose hazardous waste.

Endangered Species

If the project consists of new construction of any type, it must be reviewed by the U.S. Fish and Wildlife Service to determine whether it would have an impact on endangered or threatened species.

Farmland Protection

New construction activities that represent the first such intrusion into an area previously zoned agricultural are discouraged, and new construction should not occur on land zoned agricultural.

Air Quality

Grantees should refrain from projects that either increase the amount of air pollution (such as through greatly increasing automobile traffic), or which subject the residents to excessive levels of air pollution. Please consult with BOLD if you have questions about this area.

Thermal and Explosive Hazards

The proximity of petroleum or chemical storage tanks to a proposed housing site is of concern. Many older neighborhoods in cities and towns contain industries which use or store such products. While fire safety codes generally assure safe operation and minimize these risks, at least for the short-term, such sites may represent hazards to residents. Therefore, it is important that housing sites be evaluated carefully to determine whether such risk is present. Grantees should make every effort to avoid sites that place residents at risk. In general, sites within one-quarter mile of such a site, particularly when there are no intervening structures, are generally unsuitable for new housing development, or for substantial rehab projects (i.e., those whose value exceeds 50% of the before-rehab value of the house). The Department of Commerce maintains a list of aboveground and underground storage tanks. The lists can be accessed through the following website: http://apps.commerce.state.wi.us/Er_Tanks/ER-EN-TankSearch.htm.

Consult with **BOLD** for assistance in evaluating potential hazards.

RED FLAGS

The following "red flag" issues are those most likely to occur in projects involving moderate or substantial rehab.

1. **Issue:** Property may be 50 years old or older.

What to do: Determine exact age of building from title abstract or other document. Follow instructions on flow chart "Steps in Historic Review Process" (Attachment 2). Contact BOLD if further assistance is required.

2. **Issue:** Property is located near a river, lake, wetland or other body of water that is inundated at least seasonally.

What to do: Determine whether site is located in 100-year or 500-year floodplain, whether it lies in a designated coastal zone (along either Lake Superior or Lake Michigan); and if near a river, whether the river is a designated "Wild and Scenic River" (see Attachment 8). Avoid such sites if possible. Contact BOLD Environmental Review Desk for further assistance.

3. **Issue:** Property is located near a commercial airport.

What to do: Consult Attachment 9 to determine if proposed site is in Runway Clear Zone.

Recommendation: Avoid such sites if possible. Contact BOLD if no alternatives exist.

4. **Issue:** Property is located within one-quarter mile of an industrial site using or storing flammable or explosive materials.

What to do: Determine, if possible, the names of the materials used in the industrial facility. Contact BOLD Environmental Review Desk to determine whether site is located a safe distance from site.

5. **Issue:** Property is located near a busy highway or thoroughfare, airport, rail line, or other significant noise source.

What to do: Contact BOLD to determine whether potential interior noise levels are excessive, and whether acoustical buffering is recommended.

6. **Issue:** Property is located near a manmade hazard, such as a hazardous waste facility, leaking underground storage tank, or other public health and safety hazard.

What to do: Avoid such sites if at all possible. Contact BOLD for further instructions.

7. **Issue:** Project activity would take place on land zoned agricultural (new construction only).

What to do: Avoid such sites if possible. Contact BOLD if no alternatives exist.

You may contact BOLD at the following phone number: 608/267-2712. All correspondence related to any of the above should be submitted to:

Environmental Desk
Bureau of Local Development
Department of Commerce
P. O. Box 7970
Madison, WI 53707-7970

ATTACHMENT 1

(A copy should be placed in file of each project funded under recipient's grant.)

STATUTORY CHECKLIST

Project Address: _____

AREA OF STATUTORY--REGULATORY COMPLIANCE

Environmental Issue	Property in Compliance if:	Compliance Status
Historic Properties	Property is less than 50 years old, or if activity is listed on "Activities Exempt from Further Review."	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Floodplain Management	Property not located in 100 year floodplain. F.I.R.M. _____	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Coastal Areas Protection and Management	Property not on a river or stream flowing into or within one-half mile of Lake Michigan or Lake Superior, or located on shoreline of either lake.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Wild and Scenic Rivers	Property not located on either the St. Croix or Wolf Rivers or National Wild and Scenic Rivers System Components - Wisconsin.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Runway Clear Zones, Clear Zones and Accident Potential Zones	Not listed on HUD Circular letter HD-85-8, 5/23/85.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Manmade Hazards	Not located on or adjacent to site of a previous chemical spill, leaking underground storage tank, Superfund site, industrial site..	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Noise	Project not within: 5 miles of civil airport; 15 miles of military airfield; 1,000 feet of busy roadway; 3,000 feet from railroad.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Wetlands Protection	Project site not located in an existing wetland or impacting on existing wetland. No direct or indirect effect.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required

Environmental Issue	Property in Compliance if:	Compliance Action
Water Quality	Project causes no dredged or fill materials in navigable waters, including wetlands: preapproved general permit or no effect..	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Water Quality: Sole Source Aquifers	None in Wisconsin per EPA.	<input checked="" type="checkbox"/> Not Applicable to this Project: in Compliance
Solid Waste Disposal Availability, Renovation and Demolition with Asbestos or Lead Based Paint	No hazardous waste is generated or no excessive pressure placed on existing landfills.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Endangered Species	No threats to either species or habitats.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Farmland Protection	Unique or protected farmland is not developed.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Air Quality	No permanent effect on air quality (construction dust excluded), if: NO DEMOLITION or installation of large fuel burning equipment.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required
Thermal and Explosive Hazards	Property not located or adjacent to an industrial facility that creates explosive or thermal hazard.	<input type="checkbox"/> Compliance or NOT APPLICABLE <input type="checkbox"/> Consultation/Review Required <input type="checkbox"/> Conditions and/or Mitigation Actions Required

Signature and Title

Date

